§ 220.64 Program integrity.

The Board will not use in its program any individual or entity who is excluded, suspended, or otherwise barred from participation in the Medicare or Medicaid programs, or any other Federal or Federally-assisted program; who has been convicted, under Federal or State law, in connection with the delivery of health care services, of fraud, theft, embezzlement, breach of fiduciary responsibility or financial abuse; who has been convicted under Federal or State law of unlawful manufacture, distribution, prescription, or dispensing of a controlled substance; whose license to provide health care services is revoked or suspended by any State licensing authority for reasons bearing on professional competence, professional conduct, or financial integrity; who has surrendered such a license while formal disciplinary proceedings involving professional conduct were pending; or who has had a civil monetary assessment or penalty imposed on such individual or entity for any activity described in this section or as a result of formal disciplinary proceedings. Also see §§ 220.53 and 220.57(b).

Subpart H—Evaluation of Disability

§ 220.100 Evaluation of disability for any regular employment.

(a) General. The Board uses a set evaluation process, explained in paragraph (b) of this section, to determine whether a claimant is disabled for any regular employment. This evaluation process applies to employees, widow(er)s, and children who have applied for annuities under the Railroad Retirement Act based on disability for any regular employment. Regular employment means substantial gainful activity as that term is defined in § 220.141.

(b) Steps in evaluating disability. A set order is followed to determine whether disability exists. The duration requirement, as described in § 220.28, must be met for a claimant to be found disabled. The Board reviews any current work activity, the severity of the claimant’s impairment(s), the claimant’s residual functional capacity, and the claimant’s age, education, and work experience. If the Board finds that the claimant is disabled or is not disabled at any step in the process, the Board does not review further. (See § 220.105 if the claimant is not currently disabled but was previously disabled for a specified period of time in the past.) The steps are as follows:

(1) Claimant is working. If the claimant is working, and the work is substantial gainful activity, the Board will find that he or she is not disabled regardless of his or her impairments, age, education, or work experience. If the claimant is not performing substantial gainful activity, the Board will follow paragraph (2) of this section.

(2) Impairment(s) not severe. If the claimant does not have an impairment or combination of impairments which significantly limit his or her physical or mental ability to do basic work activities, the Board will find that the claimant is not disabled without consideration of age, education, or work experience. If the claimant has an impairment or combination of impairments which significantly limit his or her ability to do basic work activities, the Board will follow paragraph (3) of this section. (See § 220.102(b) for a definition of basic work activities.)

(3) Impairment(s) is medically disabling. If the claimant has an impairment or a combination of impairments which meets the duration requirement and which the Board finds is medically disabling, the Board will find the claimant disabled without considering his or her age, education or work experience. In determining whether an impairment or combination of impairments is medically disabling, the Board will consider factors such as the nature and limiting effects of the impairment(s); the effects of the treatment the claimant has undergone, is undergoing, and/or will continue to undergo; the prognosis for the claimant; medical records furnished in support of the claimant’s claim; whether the severity of the impairment(s) would fall within any of
the impairments included in the Listing of Impairments as issued by the Social Security Administration and as amended from time to time (20 CFR part 404, subpart P, appendix I); or whether the impairment(s) meet such other criteria which the agency by administrative ruling of general applicability has determined to be medically disabling.

(4) Impairment(s) must prevent past relevant work. If the claimant’s impairment or combination of impairments is not medically disabling, the Board will then review the claimant’s residual functional capacity (see §220.120) and the physical and mental demands of past relevant work (see §220.130). If the Board determines that the claimant is still able to do his or her past relevant work, the Board will find that he or she is not disabled. If the claimant is unable to do his or her past relevant work, the Board will follow paragraph (b)(5) of this section.

(5) Impairment(s) must prevent any other work. (i) If the claimant is unable to do his or her past relevant work because of his or her impairment or combination of impairments, the Board will review the claimant’s residual functional capacity and his or her age, education and work experience to determine if the claimant is able to do any other work. If the claimant cannot do other work, the Board will find him or her disabled. If the claimant can do other work, the Board will find the claimant not disabled.

(ii) If the claimant has only a marginal education (see §220.129) and long work experience (i.e., 35 years or more) in which he or she only did arduous unskilled physical labor, and the claimant can no longer do this kind of work, the Board will use a different rule (see §220.127) to determine disability.

(c) Once a claimant has been found eligible to receive a disability annuity, the Board follows a somewhat different order of evaluation to determine whether the claimant’s eligibility continues as explained in §220.180.